

FILED BY JK D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

03 OCT 30 PM 4:28

ROBERT R. DI TROLIO
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UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

vs.

No. 03-0MC-027MaV

DAVID A. SWICK, TODD J. COHEN, and
TERRENCE J. O'DONNELL,
Defendants.

ORDER GRANTING VINING SPARKS IBG, LP'S
MOTION TO QUASH SUBPOENA

On September 23, 2003, the defendants in this case, David A. Swick, Todd J. Cohen, and Terrence J. O'Donnell, issued a subpoena duces tecum to a non-party, Vining Sparks IBG, LP ("Vining Sparks"), a registered securities broker-dealer based in Memphis, Tennessee, seeking the production in New York of fifty categories of documents allegedly pertaining to the above-referenced lawsuit. Presently before the court is the October 9, 2003 motion of Vining Sparks to quash the subpoena. Vining Sparks argues, among other things, that the documents the defendants now seek should not be produced because they are irrelevant to the issues in this case and that the subpoena is invalid as improperly issued. United States District Court Judge Samuel H. Mays, Jr. referred this matter to the United States Magistrate Judge for determination.

The underlying action in which the subpoena was issued is a

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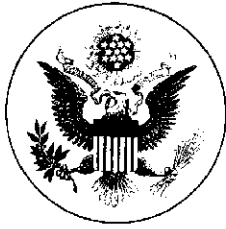
lawsuit filed by the Securities and Exchange Commission ("SEC") in the Southern District of New York. In the complaint, the SEC alleges that the principals of Suncoast Capital Group, Ltd. were engaged in a fraudulent kickback scheme.

Pursuant to Local Rule 7.2(a)(2), responses to motions in civil cases are to be filed within fifteen days after service of the motion. None of the parties have filed a response to this motion, and the time for responding has now expired. Rule 7.2(a)(2) further provides that "[f]ailure to respond timely to any motion . . . may be deemed good grounds for granting the motion."

In the absence of any response, Vining Sparks' motion to quash the subpoena is granted.

IT IS SO ORDERED this 30th day of October, 2003.


DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE



Notice of Distribution

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Frank L. Watson
BATEMAN GIBSON & CHILDERS
65 Union Ave.
1010 Cotton Exchange Bldg.
Memphis, TN 38103

Stephanie Camille Reifers
BATEMAN GIBSON & CHILDERS
65 Union Ave.
1010 Cotton Exchange Bldg.
Memphis, TN 38103

Diane Vescovo
OFFICE OF MAGISTRATE JUDGE DIANE K. VESCOVO
167 N. Main St., Room 341
Memphis, TN 38103

Honorable Samuel Mays
US DISTRICT COURT